



## Minnesota Center for Environmental Advocacy

The legal and scientific voice protecting and defending Minnesota's environment

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August 30, 2013

Honorable Susan Richard Nelson  
United States District Court  
774 Federal Building  
316 N. Robert Street  
St. Paul, MN 55101

**VIA ELECTRONIC SERVICE**

*Re: North Dakota v. Heydinger, Civil File No. 11-3232 SRN/SER*

Dear Judge Nelson:

Yesterday (Doc. No. 120), Plaintiffs' counsel argued that Amici should submit their brief in the forthcoming summary judgment briefing one week after Defendants' brief because:

Defendants and the Environmental Policy Groups are and will continue to be in communication with one another regarding the content of Defendants' summary judgment submissions and, therefore, the Environmental Policy Groups will have adequate time to determine what they should include in their amicus curiae brief in order to avoid redundancy.

That assertion is incorrect. The State Defendants and the Amici have not been in communication with one another about the contents of the State's summary judgment submissions, because of the State Defendants' concerns about waiver of privilege. As a result, Amici will not find out about the State's contentions before the Plaintiffs do.

As Amici have previously represented to the Court, it is highly likely that Amici's arguments and the State's arguments will differ, because of the different interests involved. We will not know the extent of those differences until we receive the State's materials next week, and therefore the Plaintiffs' proposed one week deadline for Amici is not reasonable.

Thank you for your consideration.

Judge Susan Nelson

August 30, 2013

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Respectfully submitted,

s/ Elizabeth Goodpaster

Elizabeth Goodpaster

Attorney

BG/km: